

## Simon Gorton QC

Call 1988 | Silk 2011



### Clerks' Details

Neil Wright  
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### Memberships

- Employment Law Bar Association
- Personal Injury Bar Association
- Professional Negligence Bar Association

### Education

- London University - Queen Mary College LL.B (2:1)

### Employment CV

#### Overview

With many reported cases in the IRLR from 1996 to 2020, from the House of Lords to the Supreme Court, Simon Gorton QC is a seasoned erudite and persuasive silk, used in complex employment claims from professional services, banking including most recently a LIBOR related action for a former trader who faced a £1 billion counterclaim, universities and NHS Trusts.

His work spans from hard fought cases before tribunals, with substantial experience across the entire appellate landscape, complimented with a proven track record in the civil courts where he regularly appears in employment related commercial disputes.

He is consistently ranked in the Legal 500 and Chambers and Partners as a leader in Employment Law and lectures regularly on a variety of employment law issues.

#### Recent example cases:

- *Jesudason v Alder Hey Children's NHS Foundation Trust (CA)* [2020] IRLR 374
- *Royal Mail Group Ltd v Jhuti* [2019] UKSC 55
- *Efobi v. Royal Mail Group (CA)* [2019] IRLR 352
- *Sheikoleslami v. University of Edinburgh* [2018] IRLR 1090
- *Kocur v. Angard Staffing Solutions Ltd and ors* [2019] IRLR 933, [2020] ICR 170

## Recommendations

“A seasoned performer in all areas of employment law, acting on behalf of clients ranging from trade unions and public bodies to high-profile companies and individuals. He has experience in both employment and personal injury law and is especially capable of handling matters relating to the Protection from Harassment Act.”

**Strengths:** “Robust, experienced and a skilled cross-examiner.” “Committed, hard-working and client-focused. He is a good advocate.”

**Chambers & Partners 2021 - Employment – Northern Circuit (Band 1)**

### Previous Directory commentary includes:

“He gets straight to the heart of key issues.”

**Chambers & Partners**

Simon Gorton, who divides his time between Liverpool and London, is “outstanding at building a case and excellent at cross-examination.”

**Chambers & Partners**

“The impressive Simon Gorton QC is another vastly experienced employment specialist at the set and a real force to be reckoned with.”

**Chambers & Partners**

His “tactical approach to proceedings” and “formidable” advocacy style give him an edge. one commentator noted: “His polite cross-examination technique is deadly.”

**Chambers & Partners**

“His subject knowledge is a given but where he makes the biggest difference is with his tactical awareness and cross examination skills. His focus on the claims and issues is relentless and he makes the most complex issues seem straight forward.”

**The Legal 500**

## Cases

### Transfer of Undertakings

Simon's involvement at every (appellate level) in the seminal case of *Wilson v. St Helen's Borough Council and others* [1998] IRLR 706, HL.

Simon has also appeared in:

- *Arch Initiatives v. Greater Manchester West Mental Health NHS Foundation Trust* [2016] IRLR 406, EAT
- *Housing Maintenance Solutions Ltd v JF McAteer & Ors* [2014] UKEAT 0440/13/0108.
- *CSC Computer Sciences Ltd v McAlinden & Ors* [2013] EWCA Civ 1435, CA.
- *Park Cakes Ltd v. Shumba and others* [2013] IRLR 800, CA.
- *St Helens Borough Council v. Derbyshire & Ors* [2007] ICR 1693, [2007] ICR 841, [2007] IRLR 540, [2007], [2007] UKHL 16, 25 April 2007.
- *Hardman & Co v Urmston & Ors* [2006] UKEAT 0620/05/1407, 14 July 2006.
- *Belcher & Ors v Great Bear Distribution Ltd* [2005] UKEAT 0453/05/1912, 19 December 2005.
- *Astle others v. Cheshire County Council and another* [2005] IRLR 12.
- *P&O Tans European Ltd v. Initial Transport Services Ltd* [2003] IRLR 128
- *RCO Support Services and Aintree Hospital Trust v. Unison and others* [2000] IRLR 624

### Whistleblowing

Simon has considerable expertise in this area, evidenced with his representation of The Royal Mail Group, before the EAT, Court of Appeal and then the Supreme Court in the case of *Jhuti* which resulted in a judgment that introduced seismic changes to employment law with the reassessment of how a Tribunal determines the 'reason' for dismissal, with the judicial enquiry reaching beyond the deputed decision maker.

- *Jesudason v Alder Hey Children's NHS Foundation Trust* [2020] EWCA Civ 73, 31 January 2020.
- *Royal Mail Group Ltd v Jhuti* [2019] UKSC 55, 27 November 2019.
- *Royal Mail Ltd v Jhuti* [2017] [2018] ICR 982, [2018] IRLR 251, 20 October 2017.
- *Kaltz Ltd v Hamer* [2012] UKEAT 0198/11/2402, 24 February 2012.

### Appeal Work

Simon is regularly instructed at Appellate level and is well regarded for his team working. With over 30 appellate cases in IRLR spanning three decades including cases before the House of Lords and the Supreme Court, Simon's ability to pick through complex judgments and enhance arguments on key legal issues, ensures he is a well-regarded and popular silk with juniors, clients and a highly respected advocate before the judiciary.

## **Restrictive Covenants**

Simon is experienced with the full range of interim remedies available through the High Court, including not just interim injunctive relief but search and seizure orders.

## **Medical and Regulatory**

- *Jesudason v Alder Hey Children's NHS Foundation Trust* [2020] EWCA Civ 73, 31 January 2020.
- *Arch Initiatives v Greater Manchester West Mental Health NHS Foundation Trust* [2016] IRLR 406, 21 January 2016.
- *Jesudason v Alder Hey Children's NHS Foundation Trust Queen's Bench Division*, 25 July 2012.
- *Hospital Medical Group Ltd v Westwood (CA)* [2012] IRLR 834, [2013] ICR 415, 24 July 2012.
- *Dr A v HTX* [2012] EWHC 857 (QB), 3 April 2012.

## **Discrimination and Equality**

### **Direct Discrimination**

- *Efobi v. Royal Mail Group (CA)* [2019] IRLR 352.

### **Race (direct) and victimisation**

- *Greater Manchester Police v Bailey (CA)* [2017] EWCA Civ 425, 14 June 2017.

### **Sex Discrimination**

- *St Helens MBC v Derbyshire & ors* [2005] IRLR 801, [2006] ICR 9, 29 July 2005.

### **Disability discrimination**

- *Reasonable adjustments: Sheikholeslami v The University of Edinburgh* [2018] UKEAT 0014/17/0510, 5 October 2018.
- *Stages v. Jackson & Canter (A Firm)* [2008] UKEAT 0600/07/3103, 31 March 2008.
- *Compensation: Aramark Ltd v Graham* [2013] UKEAT 0164/12/0306, 3 June 2013.
- *McLauchlan v Chubb Electronic Security Systems Ltd* [2012] UKEAT 0235/12/0512, 05 December 2012.

### **Worker status Limb**

- *In Hospital Medical Group Ltd v Westwood* [2012] IRLR 834.

### **Equal Pay**

- *St Helens Metropolitan Borough Council v. Arnold & ors* [2014] UKEAT 0108/13/1010, 10 October 2014.
- *Fox Cross & Ors V Glasgow City Council & ors* [2013] Eq LR 460, [2013] ICR 954, 25 January 2013.

## Trade Union

### TULCRA s. 152

- *University of Bolton v Corrigan* [2015] UKEAT 0408/14/2112, 21 December 2015.

### Strike (interim injunction)

- *Metrobus Ltd v Unite the Union* [2009] IRLR 851, [2010] ICR 173, CA 31 July 2009.

### Agency Workers:

Agency Workers Regulations 2010:

- *Kocur v. Angard Staffing Solutions Ltd & Anor* [2018] UKEAT 0181/17/2302, 23 February 2018.

### Unfair dismissal

- *Hamer v Kaltz Ltd* [2014] UKEAT 0502/13/0408, 04 August 2014.
- *Clarence High School and Nugent Care Society v Boardman* [2013] ICR 927, 15 March 2013 (CA).
- *Handshake Ltd v Summers* [2012] UKEAT 0216/12/2210, 22 October 2012.
- *Boardman v Nugent Care Society & Anor* [2012] UKEAT 0071/12/1007, 10 July 2012.
- *Greater Merseyside Connexions Partnership v Hilton* [2009] UKEAT 0228/09/1410, 14 October 2009.
- *Bates v Liverpool City Council* [2007] UKEAT 0309/06/2501, 25 January 2007.

### Remedies

- Contributory fault - *Kaltz Ltd v Hamer* [2011] UKEAT 1853/10/1509, 15 September 2011.

### Strike out / deposit orders:

- *Javed v. Blackpool Teaching Hospitals NHS Foundation Trust* [2017] UKEAT 0135/17/0112, 1 December 2017.

### Working Time Regulations

- On call work - *City of Edinburgh Council v Lauder & Ors* [2012] UKEAT 0048/11/2003, 20 March 2012.
- *MPG Contracts Ltd v. A England (Junior) & Anor* [2009] UKEAT 0488/08/0805, 8 May 2009.

### Wrongful dismissal

- *Clarence High School and Nugent Care Society v Boardman* [2013] ICR 927, 15 March 2013.

### Definition of employee

*Consistent Group Ltd v. Kalwak & Ors* [2007] IRLR 560, 18 May 2007.

### Some other substantial reason

- *Nunn v Royal Mail Group Ltd* [2011] ICR 162, 27 October 2010.
- *Driving Edge Ltd v Gietowski* [2008] UKEAT 0444/07/0802, 8 February 2008.

### **Status of Claimant (worker/employee/neither)**

- *MPG Contracts Ltd v. A England (Junior) & Anor* [2009] UKEAT 0488/08/0805 (8 May 2009)

### **Minimum wage**

- *South Manchester Abbeyfield Society Ltd v Hopkins & Anor* [2011] ICR 254, [2011] IRLR 300, 30 November 2010.

### **Claim in time / EDT**

- *Nageh v David Game College Ltd & Anor* [2011] UKEAT 0112/11/2207, 22 July 2011.

## **COMMON LAW**

### **A day's pay - per diem or calendar?**

*MM Packaging (UK) Ltd v. Philip Potter & Ors (CA)* [2017] EWCA Civ 1471, 31 July 2017.

### **Practice – compromise**

*St Helens Metropolitan Borough Council v. Arnold & Ors* [2014] UKEAT 0108/13/1010, 10 October 2014

### **Terms of contract – custom and practice**

*Park Cakes Ltd v. Shumba and Ors* [2013] IRLR 800, CA. This is the leading case in its field.

### **Terms of contract - implied terms / variation / commission / bonus**

*CSC Computer Sciences Ltd v McAlinden & Ors* [2013] EWCA Civ 1435, CA.

### **Injury at work**

*Merseyside Fire and Civil Defence Authority v Bassie* [2005] EWCA Civ 1474, 01 November 2005.

### **Negligence, missing Tribunal deadline, liability of union and or solicitors**

*Brunsdon v Pattinson and Brewer (a firm) & Ors* [2006] EWHC 1562 (QB), 29 June 2006.